



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: September 13, 2012

Agenda Item No. 9B: Office of Mine Reclamation, Lead Agency Review Team (LART) Reports for the County of Mendocino.

INTRODUCTION: Under the Surface Mining and Reclamation Act (SMARA), lead agencies are required to fulfill certain responsibilities including conduct of site inspections, annual review and adjustment of financial assurances, review and approve new and amended reclamation plans, and take enforcement actions as appropriate, among other obligations. In 2007, the Department of Conservation, Office of Mine Reclamation (OMR) established the Lead Agency Review Team (LART). LART has completed its review of the County of Mendocino's (County) SMARA program dated July 19, 2012.

STATUTORY AUTHORITY: Public Resources Code (PRC) Sections 2774.4(a) and (b) provide criteria to the SMGB when considering assumption, or restoration, of certain SMARA powers of a lead agency. Specifically, PRC Section 2774.4(a) states that if certain deficiencies exist, the SMGB can assume certain SMARA lead agency responsibilities as follows:

“If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority.”

Public Resources Code Sections 2774.4(c) provides criteria the SMGB considers should it determine to issue a 45-Day Notice to Correct Deficiencies, and states:

“(c) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allow the lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within the 45-day period, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-



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day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207."

BACKGROUND: California is the only state in the conterminous United States where surface mine reclamation is not regulated at the state level. Most states also maintain permitting authority when it comes to mining regulation; whereas, in California permitting authority is decided at the local level. SMARA pursuant to PRC Section 2728 defines a lead agency as a city, county, San Francisco Bay Conservation and Development Commission (BCDC), or the SMGB which has the principal responsibility for approving a surface mining operation or reclamation plan. Under the California Surface Mining and Reclamation Act of 1975 (SMARA), there are currently 113 lead agencies: 52 counties, 50 cities, and the SMGB.

In 2007, the SMGB published Information Report IR 2006-07 titled "*Report on SMARA Lead Agency Performance Regarding Mine Reclamation.*" This evaluation assessed the lead agency's performance of periodic mine inspections, adjustment of annual financial assurances and enforcement of the preparation of Interim Management Plans should a surface mine site be characterized as idle for a period exceeding one year. Based on this review, the overall performance of SMARA lead agencies was found to significantly vary throughout the state. For the most part, overall performance was found to be poor, reflecting a number of factors including primarily financial constraints, limited or lack of internal technical expertise, and overall low priority. As of March 2011, LART has commenced review of 18 SMARA lead agencies.

County of Mendocino SMARA Program: The review of the County's SMARA program was performed in 2011-2012, with the LART report completed on July 19, 2012. The County provided a response to the LART report in correspondence dated October 14, 2011.

Thirty-six (36) surface mining operations are reported to exist within the jurisdiction of the County (Table 1). Twenty-four (24) are characterized as active, eight are newly permitted, and three are closed and certified complete. Commodities produced include primarily sand and gravel, with subordinate amounts of rock and silica.

In review of the LART report for the County, several deficiencies are reported. Notably, deficiencies noted by LART reported, albeit, not limited, included failure to review and adjust financial assurances cost estimates, failure to inspect mines at least once each calendar year, preparation of inadequate inspection reports, failure to commence reclamation following site abandonment and absence of Interim Management Plans (IMPs), and failure to enforce SMARA (Table 1).



Table 1
Summary of Surface Mining Operations situated in the County of Mendocino

Surface Mine Mine ID Number	Mine Name	Surface Mine Status	Last Inspection Report on File (year)	Approved Acreage	Disturbed Acreage (Annual Report/ Inspection Report/OMR GPS)	Produced Product	Deficiencies Noted By OMR
91-23-0002	Camp 5 Pit	Active	11/11/11	15	0/15/10	Sand and gravel	1,2,4
91-23-0003	Ford Gravel Company	Active	Uncertain	87	27/34/87	Sand and gravel	2
91-23-0008	Bed Rock, Inc.	Reclamation certified complete	Uncertain	0	3/0/50	Sand and gravel	1,2
91-23-0010	Red Rock Quarry	Active	03/21/12	4	0/4/NA ^(b)	Sand and gravel	1,2
91-23-0012	Laughlin Ridge- Shuster Quarry	Active		6	0/6/NA	Sand and gravel	2
91-23-0015	Harris Quarry	Active	12/15/11	18	8/8/18	Sand and gravel	2
91-23-0016	Dobie Lane Pit/Mill Creek Bar	Active	12/16/11	3	3/3/3	Sand and gravel	1,2,4,6
91-23-0020	10 Mile 2 nd Crossing	Active	Uncertain	18	8/18/NA	Sand and gravel	2
91-23-0021	Pietta Quarry	Active	12/15/11	7	7/7/6	Sand and gravel	2
91-23-0026	Tunzi Inc.	Active	12/02/12 (2011)	1	1/1/NA	Sand and gravel	1,2
91-23-0027	Rowland Bar	Reclamation certified complete	Uncertain	0	0/0/0	Sand and gravel	2
91-23-0028	Sherwood Road	Active	Uncertain	6	6/5/5	Sand and gravel	1,2,4
91-23-0029	Laytonville Rock Quarry	Active	03/20/12	16	16/8/9	Stone	1,2,6
91-23-0030	Cleone Sand Pit	Active	11/22/11	11	11/4/3	Sand and gravel	2
91-23-0031	Redwood Valley Gravel Products, Inc.	Active	01/04/12	18	2/18/7	Sand and gravel	1,2
91-23-0032	Big River 7 Mile	Active	12/01/11	4	4/4/NA	Stone	1,2
91-23-0033	McKenzie Bar	Idle	12/16/11	5	0/5/2	Sand and gravel	2,6
91-23-0034	Bald Hills Quarry	Active	06/20/12	15	2/15/NA	Sand and gravel	2
91-23-0036	Cooks Valley - Mendocino	Active	01/04/12	8	0/6/8	Sand and gravel	2
91-23-0038	Wilsey Ranch Quarry	Active	11/22/11	8	2/8/NA	Rock	2
91-23-0039	Blue Ridge Rock Products	Active	12/08/11	45	45/27/31	Stone	1,2,4
91-23-0042	Warbonnet Rock Products	Reclamation certified complete	Uncertain	0	0/0/NA	Rock	2
91-23-0043	Coal Mine	Active	01/04/12	16	0/15/16	Sand and gravel	1,2,4
91-23-0047	Poonkinney Agricultural Rock	Active	12/16/11	4	4/4/NA	Silica	1,2

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91-23-0048	Perry Ridge Quarry	Active	08/09/11	8	8/8/4	Stone	1,2,4,6
91-23-0049	Greenwood Aggregates	Newly permitted	12/08/11	4	4/4/NA	Sand and gravel	1,2,4
91-23-0050	Johnson Quarry	Newly permitted	12/02/11	4	2/4/NA	Stone	1,2
91-23-0051	John Smith Creek	Newly permitted	11/15/11	1	1/0/NA	Rock	2
91-23-0052	Snow's Mill	Newly permitted	11/15/11	1	1/1/NA	Rock	2
91-23-0053	Norden Gulch	Active	11/15/11	1	1/1/NA	Rock	2
91-23-0054	Little North Fork	Active	11/15/11	0	0/0/NA	Rock	1,2
91-23-0055	Bowman Ridge	Newly permitted	12/01/11	0	0/0/NA	Rock	2
91-23-0056	North Fork Navarro & Hwy 128	Newly permitted	11/15/11	1	1/1/NA	Rock	2
91-23-0057	Perry Gulch	Active	11/15/11	1	1/1/NA	Rock	2
91-23-0058	West Corrals	Newly permitted	Uncertain	1	0/1/NA	Rock	2
91-23-0059	Hayworth Creek	Newly permitted	05/16/12	1	1/0/NA	Rock	2

Note: (a) Twenty-six operations were identified with missing annual reports or lack of inspections.
 (b) NA = Not available.

EXECUTIVE OFFICER'S RECOMMENDATION: The information being provided by OMR is for the SMGB's information. However, based on the current status of the SMARA program as depicted in the LART report, the Executive Officer recommends that a 45-Day Notice to Correct Deficiencies (Notice) be issued to the County of Mendocino. Should the County not correct the deficiencies to the satisfaction of the SMGB within the 45-day period, a public hearing be scheduled at such time pursuant to PRC Section 2774.4(c).

SUGGESTED MOTION LANGUAGE: The SMGB may consider the following motion language:

[Should the SMGB determine that the County is fulfilling its responsibilities and obligations as a lead agency pursuant to SMARA, and that no deficiencies and violations exist, the following motion may be considered.]

Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, find that the County of Mendocino is making a good faith effort in fulfilling its responsibilities and obligations as a lead agency under SMARA, and that the Board not consider issuance of a 45-Day Notice of Deficiencies.

[or]

[Should the SMGB determine that the County is making significant progress, but certain deficiencies and violations remain uncorrected, the following motion may be considered.]

Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, find that the County of Mendocino is making a good faith effort in fulfilling its responsibilities and obligations as a lead agency under SMARA, but note that significant deficiencies persist, and direct the Executive Officer to conduct a thorough review of current mine inspection reports for all surface mine sites within the jurisdiction of the County, and conduct on-site visits, as appropriate and deemed necessary. Upon completion, the Executive Officer will report back to the SMGB, and the SMGB can consider issuance of a 45-Day Notice of Deficiencies, if deemed necessary.

[or]

[Should the SMGB determine that deficiencies and violations remain uncorrected and the County is failing to make progress, the following motion may be considered.]

Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, direct the Executive Officer to issue a 45-Day Notice to Correct Deficiencies to County of Mendocino pursuant to Public Resources Code Sections 2774.4(a) and (c).

Respectfully submitted:



Stephen M. Testa
Executive Officer